

## **REMARKS**

### **Claim Rejections**

Claims 1-5, 7, and 8 are rejected under 35 U.S.C. § 112, first paragraph. Claims 1-4, 7, and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Chiao et al. (US 6,904,493).

Claims 1-5, 7, and 8 are rejected under 35 U.S.C. § 103(a) Chiao et al. and further in view of Applied Cryptography, Bruce Schneier, 2<sup>nd</sup> Edition (hereinafter referred to as Schneier).

### **Drawings**

The Examiner has objected to the drawings under 37 C.F.R. § 1.83(a) insofar as the USB data processing card has a connecting part having no metal shielding, referred to in Applicant's claim 1, was not illustrated in the figures. Since the term has been deleted from Applicant's amended claims, it is not believed that any drawing corrections are necessary.

### **Claim Amendments**

By this Amendment, Applicant has canceled claims 7 and 8 and amended claim 1 of this application. It is believed that the amended claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

It is submitted that the claimed subject matter is described in Applicant's specification in sufficient detail to enable one having ordinary skill in the art to make and use Applicant's invention without undue experimentation. It is believed that Applicant's specification discloses how to make and use the claimed invention.

The primary reference to Chiao et al. teaches a secure flash memory device (10) including a body (12) and a connection pot (14) having a metal shielding. Chiao et al. state, column 4, lines 6-21:

As described, the security program 28 compares the entered pass code to the predetermined pass code 32. The microcontroller 22 then allows or restrict access to the bulk

storage area 30 of the flash memory 20 in accordance with the verification of the entered pass code. The user can request read or write access to the flash memory 20 by executing the security program 28, or performing another similar action. In situations where the verification of the entered pass code fails, the microcontroller 22 blocks read or write access to the flash memory 20. This can be done, for example, by the microcontroller 22 simply ignoring write requests and returning insignificant values or meaningless contents to read requests, without issuing any error messages to the user indicating that read and write operations are unsuccessful.

Chiao et al. teaches blocking read or write access, but there is no suggestion of dividing the memory into blocks, a reserved block, or blocks with different functions.

Chiao et al. do not teach said memory unit is divided into a plurality of blocks including a reserved block, each block of the plurality of blocks has functions selected from a group consisting of allowing users to and prohibiting the users from reading, writing, deleting, and modifying data, and formatting the block; nor does Chiao et al. teach an appropriate program allowing a specific user to read, write, delete, and modify data in said reserved block, and format said reserved block.

The secondary reference to Schneier is cited for teaching hashing with respect to passwords/pass codes.

Schneier does not teach said memory unit is divided into a plurality of blocks including a reserved block, each block of the plurality of blocks has functions selected from a group consisting of allowing users to and prohibiting the users from reading, writing, deleting, and modifying data, and formatting the block; nor does Chiao et al. teach an appropriate program allowing a specific user to read, write, delete, and modify data in said reserved block, and format said reserved block.

Even if the teachings of Chiao et al. and Schneier were combined, as suggested by the Examiner, the resultant combination does not suggest: said memory unit is divided into a plurality of blocks including a reserved block, each block of the plurality of blocks has functions selected from a group consisting of allowing users to and prohibiting the users from reading, writing, deleting, and modifying data, and formatting the block; nor does the combination suggest an

appropriate program allowing a specific user to read, write, delete, and modify data in said reserved block, and format said reserved block.

It is a basic principle of U.S. patent law that it is improper to arbitrarily pick and choose prior art patents and combine selected portions of the selected patents on the basis of Applicant's disclosure to create a hypothetical combination which allegedly renders a claim obvious, unless there is some direction in the selected prior art patents to combine the selected teachings in a manner so as to negate the patentability of the claimed subject matter. This principle was enunciated over 40 years ago by the Court of Customs and Patent Appeals in In re Rothermel and Waddell, 125 USPQ 328 (CCPA 1960) wherein the court stated, at page 331:

The examiner and the board in rejecting the appealed claims did so by what appears to us to be a piecemeal reconstruction of the prior art patents in the light of appellants' disclosure. ... It is easy now to attribute to this prior art the knowledge which was first made available by appellants and then to assume that it would have been obvious to one having the ordinary skill in the art to make these suggested reconstructions. While such a reconstruction of the art may be an alluring way to rationalize a rejection of the claims, it is not the type of rejection which the statute authorizes.

The same conclusion was later reached by the Court of Appeals for the Federal Circuit in Orthopedic Equipment Company Inc. v. United States, 217 USPQ 193 (Fed.Cir. 1983). In that decision, the court stated, at page 199:

As has been previously explained, the available art shows each of the elements of the claims in suit. Armed with this information, would it then be non-obvious to this person of ordinary skill in the art to coordinate these elements in the same manner as the claims in suit? The difficulty which attaches to all honest attempts to answer this question can be attributed to the strong temptation to rely on hindsight while undertaking this evaluation. It is wrong to use the patent in suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit. Monday morning quarterbacking is quite improper when

resolving the question of non-obviousness in a court of law.

In In re Geiger, 2 USPQ2d, 1276 (Fed.Cir. 1987) the court stated, at page 1278:

We agree with appellant that the PTO has failed to establish a *prima facie* case of obviousness. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination.

Applicant submits that there is not the slightest suggestion in either Chiao et al. or Schneier that their respective teachings may be combined as suggested by the Examiner. Case law is clear that, absent any such teaching or suggestion in the prior art, such a combination cannot be made under 35 U.S.C. § 103.

Neither Chiao et al. nor Schneier disclose, or suggest a modification of their specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Applicant hereby respectfully submits that no combination of the cited prior art renders obvious Applicant's amended claims.

### **Summary**

In view of the foregoing, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should the Examiner not be of the opinion that this case is in condition for allowance, it is requested that this amendment be entered for the purposes of appeal, since it materially reduces the issues on appeal by cancelling claims 7 and 8, thereby rendering moot the outstanding rejections under 35 U.S.C. § 103.

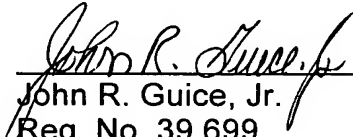
It is not believed that the foregoing amendments to claim 1 requires any further searching and/or consideration on the part of the Examiner, since such amendment merely includes incorporating the language of canceled claims 7 and 8 into claim 1. Thus, the Examiner would have inherently searched this subject matter during the previous consideration of claims 7 and 8.

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Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

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